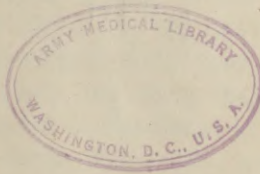


INDIANA DENTAL LAW



Indiana. Laws, statutes, etc.



Published by
INDIANA STATE BOARD OF DENTAL EXAMINERS
1943

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INDIANA DENTAL LAW

An act to regulate the practice of dentistry. Approved March 8, 1913.
[Acts 1913, p. 340.]

Dentistry—License Required

1.† It shall hereafter be unlawful for any person to practice dentistry in Indiana who has not first obtained a license so to do as hereinafter provided. (63-501.)*

Board of Examiners—Qualifications—Appointment

2. A board of examiners consisting of five reputable practicing dentists, who shall have been in practice in this state for not less than the five (5) years next preceding, shall be appointed by the governor on or before the first Monday in October, 1935, two (2) such examiners for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years, one for a term of one (1) year, and thereafter, the successors of each for a term of four (4) years: *Provided*, That the members of the present board as now constituted shall serve until members of the board are appointed and qualified under the provisions of this act: and, *Provided, further*, That the tenure of office of the members of this board shall at all times be subject to the provisions of an act of the Indiana general assembly for the year 1933, entitled "An act concerning the executive, including the administrative department of the government of the State of Indiana; repealing all acts and laws in conflict therewith; and declaring an emergency," approved February 3, 1933. Such appointments shall be made from a list containing three (3) times as many names as there are appointments to be made, submitted by the board of trustees of the Indiana state dental association at least

† Figures at beginning of paragraphs denote the section number of the Act.

* Section numbers, Burns' Indiana Statutes, 1933 and supplements.

ninety (90) days prior to such appointment date. In case of failure to submit such list in any year, the governor shall then appoint without reference thereto, but shall appoint only persons having the qualifications above set forth. When convened, said board shall examine all applicants for certificates of qualification who present the credentials hereinafter provided and issue such certificates to all such applicants as shall pass a satisfactory examination. [As amended, Acts 1935, sec. 1, p. 270.] (63-502.)

Certificate to Practice—Fees

3. After this law goes into effect, any person desiring to begin the practice of dentistry in this state shall procure from the state board of dental examiners a certificate that such person is entitled to practice dentistry in the State of Indiana, and, in order to procure such certificate, the applicant shall submit to the state board of dental examiners his diploma from a dental college recognized by the state board of dental examiners of Indiana or holding a license from the state board of dental examiners of Indiana. Every such applicant shall pay to the board twenty-five dollars (\$25) at the time of making such application, and shall pass an examination before the board at a time and place to be fixed by the board: *Provided, however,* That, for such candidates as fail to pass a satisfactory first examination, the fee for any subsequent re-examination shall be fifteen dollars (\$15), and such fees in no case shall be refundable: *Provided, further,* That if such applicant shall fail to pass the examination prescribed by the board, he shall have the right of appeal to the circuit or superior court of the county in which said applicant resides, requiring said board to show cause why said applicant should not be permitted to practice dentistry in Indiana, upon the said applicant giving a good and satisfactory bond in the sum of two hundred dollars (\$200), to be approved by the court, to secure the costs of such appeal, should the appeal be determined against him. [As amended, Acts 1931, sec. 2, p. 586.] (63-503.)

Filing Certificate—Duty of Clerk—Fees

4. Upon receipt of the certificate by the applicant from the state board of dental examiners, the applicant shall pre-

sent said certificate to the clerk of the circuit court of the county in Indiana in which he proposes to engage in the practice of dentistry; whereupon said clerk shall issue to the applicant a license to practice dentistry in said county. The person receiving such license shall pay to said clerk two dollars (\$2) as a fee for issuing and filing such county license hereinafter provided. Said clerk, within ten (10) days, shall report in writing to the secretary of the board of dental examiners of Indiana, giving the name, age, resident address and proposed business address of the person receiving such license together with the character of the authority upon which such license has been issued; said clerk shall retain and file whatever authority is presented for his issuance of said county license, in all cases. [As amended, Acts 1935, sec. 2, p. 270.] (63-504.)

Change of Practice Location—New License—Secondary License

5. In the event the holder of any dental license shall desire to change the location of his practice from one county to another county within the State of Indiana, he shall obtain a new license in the county wherein he proposes to practice, by filing with the clerk of the circuit court of such county the license obtained by him in the county in which he last practiced, in the same manner as provided for on presentation of his certificate from the state board of dental examiners, and said clerk shall issue to him a new county license and shall retain the old county license, marking it cancelled.

Any dentist who is duly licensed in the county of his practice, and who may desire to personally maintain and personally operate a secondary office for the part-time practice of dentistry in another county of the state, may apply to the state board of dental examiners for a secondary certificate, which, if granted by such board, shall be presented to, and filed with the clerk of the circuit court in such county in which such applicant purposes to operate such secondary office, and upon such presentation, such clerk shall retain and file such secondary certificate and issue to such applicant a secondary dental license which will entitle such applicant to engage in such part-time practice of dentistry in such county.

The state board of dental examiners shall prescribe such forms, and make, establish and enforce such rules and regulations relating to the application for, and issuance of, such secondary license or any renewal thereof, and the practice of dentistry thereunder, not inconsistent with any law of the State of Indiana, as in its discretion it may deem necessary and proper. [As amended, Acts 1935, sec. 3, p. 270.] (63-505.)

Form of County License

6. It shall be the duty of the clerk of the circuit court of the county in which an applicant resides or proposes to locate to issue to the person presenting such certificate as hereinbefore provided a license over his official seal in the following form:

State of Indiana, County of _____, ss:

I, _____, Clerk of the _____ Circuit Court, in the State of Indiana, do hereby certify that _____ has complied with the laws of Indiana relating to the practice of dentistry in the county aforesaid.

Witness my Hand and Seal of said Court, this _____ day of _____

_____, Clerk.
(63-506.)

Clerk's Record—Affidavit of Applicant

7. The clerk shall enter of record the name, age, place of birth and address of the applicant, and the person so registering shall subscribe to and verify by oath before the clerk an affidavit concerning such facts, which, if wilfully false, shall subject the affiant to conviction for perjury. (63-507.)

Report of Licenses Issued

8. The clerk shall furnish annually, on the first day of January, to the state board of dental examiners, upon blanks furnished by such board, a duplicate list of all certificates received and licenses issued by him during the preceding year, and shall include therein the date of issue of each

license, and the name, age and residence of the person receiving the same. (63-508.)

Annual Renewal Certificate—Display—Fees—Penalty

9. On or before the last day of each calendar year, each dentist now licensed or subsequently licensed to practice dentistry in any county in Indiana shall transmit to the secretary of the state board of dental examiners said dentist's signature and address, together with a fee of three dollars (\$3) and the number of his or her state board certificate, and receive therefor a renewal certificate which shall be valid only during the calendar year for which it is issued: *Provided, however,* That the state board of dental examiners may reduce said renewal certificate fee for any year, but such reduction must be made alike to all dentists liable to pay the same. Said renewal certificate shall be properly displayed at all times in the office of the person named as the holder of the license, and no person shall be deemed in legal practice who does not possess and display such renewal certificate. If any holder of a dental license neglects to secure the renewal certificate herein provided for within ninety (90) days after the last day of the preceding calendar year, such neglect shall, without any action by the state board of dental examiners, automatically cancel and annul the certificate previously granted, together with any related renewal certificate and county license: *Provided, however,* That any certificate or license thus cancelled or annulled may be renewed by the board within a period of six (6) months after such cancellation upon the payment of the proper renewal certificate fee and a penalty of ten (\$10) dollars. [As amended, Acts 1935, sec. 4, p. 270.] (63-509.)

Governor May Remove Member of Board

10. The governor shall have the power to remove any member of the board for incompetency, gross immorality, for any abuse of his official power or for any other good cause and may fill any vacancy occasioned by removal, death, resignation, or otherwise, by appointment. Any person appointed to fill any vacancy of such board, whether caused by death, resignation, removal or otherwise, shall hold for the

unexpired term of the member whose place he is appointed to fill. (63-510.)

Regular and Special Meetings—Records

11. The board of dental examiners shall hold not less than two (2) regular meetings in each year at such place as may be fixed by the board, on a definite date to be fixed by the board, and as often in addition as may be necessary for the transaction of such business as may properly come under the provisions of this act, and it shall have power to make all necessary rules and regulations in accordance with this act. Special meetings may be called at any time by any three (3) members of the board to be held at such time and place as may be designated in the call. The board shall elect a president and a secretary, and the secretary shall be ex-officio treasurer of the board. For their services the members shall receive the sum of ten dollars (\$10) per day and their expenses necessarily incurred. It shall be the duty of the board to keep a record of all applications for certificates, and such records shall contain all of the facts set forth in said application, including the action of the board thereon, and it shall also retain all examination papers for a period of one (1) year from the date upon which the examination is held; and said board may employ a clerk and such other person, or persons, as may be necessary to enable said board to properly carry out and enforce the provisions of this act and said board shall allow and pay out of its own funds a reasonable compensation for such work. The secretary of the board shall receive a reasonable salary to be fixed by the board. [As amended, Acts 1917, sec. 1, p. 661.] (63-511.)

Enforcement—Duty of Prosecuting Attorney and Attorney-General

12. The state board of dental examiners is charged with the duty of enforcing this act. Any examination, investigation, inquiry, hearing, review or repeal which the state board of dental examiners is authorized to hold or undertake may be held or undertaken by or before any two or more members of said board; and every order and/or finding made by such members of said board, when approved

and confirmed by the board and so shown on its record of proceedings, shall be deemed to be the order and/or finding of the said board. It shall be the duty of the prosecuting attorney, on the complaint of the board or any member thereof, to prosecute any violation of this act; and any prosecuting attorney, upon receipt, from the board or any member thereof, of an affidavit charging any person within his jurisdiction of a violation of dental laws of the State of Indiana, or any of them, who fails to prosecute such offender criminally, shall be guilty of a breach of official duty. Upon the failure, neglect or refusal of the prosecuting attorney to prosecute upon the request of the state board of dental examiners or any member thereof, any violation of this act, the said board or any member thereof may request the attorney general to prosecute, who shall have the right to prosecute with full power of the prosecuting attorney and to supersede the prosecuting attorney in the prosecution and trial of the case. [As amended, Acts 1935, sec. 5, p. 270.] (63-512.)

Practicing Without License—Injunction

12a. The attorney general, prosecuting attorney, the state board of dental examiners, or any citizen of any county where any person shall engage in the practice of dentistry, as herein defined, without possessing a valid license so to do, may, in accordance with the laws of the State of Indiana governing injunctions, maintain an action in the name of the State of Indiana to enjoin such person from engaging in the practice of dentistry, as herein defined, until a valid license to practice dentistry be secured. And any person who has been so enjoined who shall violate such injunction shall be punished for contempt of court: *Provided*, That such injunction shall not relieve such person so practicing dentistry without a valid license from a criminal prosecution therefor as is now provided by law, but such remedy by injunction shall be in addition to any remedy now provided for the criminal prosecution of such offender. In charging any person in a complaint for injunction, or in an affidavit, information or indictment, with a violation of this law by practicing dentistry without a valid license, it shall be sufficient to charge that such person did, upon a certain day and in a certain county, engage in the practice of dentistry, he not having a valid license so to do,

without averring any further or more particular facts concerning the same. [Added by Acts 1931, sec. 6, p. 586.] (63-513.)

Plaintiff's Attorney's Fees

12b. In case judgment is rendered in favor of the plaintiff in any action brought under the provisions of this act, the court rendering the same shall also render judgment for reasonable attorney's fees in such action in favor of the plaintiff and against the defendant therein, and when collected such fees shall be paid to the attorney or the attorneys of the plaintiff therein, which is paid to the attorney general or to any prosecuting attorney shall be additional to any compensation otherwise allowed by law. [Added by Acts 1931, sec. 7, p. 586.] (63-514.)

Requirements for Certificates and Dental Colleges—Reciprocity

13. The board shall from time to time establish and record, in a record kept by them for that purpose, a schedule of the minimum requirements which must be complied with by applicants for certificates to practice dentistry before they shall be entitled to receive a certificate. The board shall also in like manner establish and cause to be recorded in such record a schedule for the minimum requirements and rules for the recognition of dental colleges, so as to keep these requirements not lower than the average standard of dental education in other states. No change shall be made in such schedule or requirements in any year after the month of January of such year. Nor shall any change be made to have any retroactive effect nor that shall effect students theretofore matriculated. Such records shall at all times be open to examination by the public. The board shall have power to make and establish all necessary rules and regulations for reciprocal recognition of certificates issued by other states, and for the recognition of certificates issued by the national board of dental examiners, and to prevent unjust and arbitrary examinations by other states of graduates in dentistry from dental colleges in this state who have fulfilled its requirements. [As amended, Acts 1935, sec. 6, p. 270.] (63-515.)

Verified Statement of Dentist as to All Persons Practicing in Office—Penalty for Failure to Comply

14. From and after the passage of this act, it shall be the duty of every person practicing dentistry within the State of Indiana, upon written demand made by the secretary of state board of dental examiners, to furnish in writing, within twenty (20) days after such demand, the name and address of each and every person practicing or assisting in the practice of dentistry in the office of said person, together with a sworn statement showing by what authority or license such person or persons are practicing dentistry and in what capacity non-licensed persons are assisting in practice; said list of names and addresses shall include all persons who have been thus employed within the sixty (60) days next preceding such demand: *Provided, however,* That such affidavit shall not be used as evidence against either said person or persons so reported in any proceeding under this act. For failure to so report after such demand, the said person shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500). [As amended, Acts 1931, sec. 8, p. 586.] (63-516.)

Public Display of Name, License and Certificate—Penalty

15. Every practitioner of dentistry within the meaning of this act shall post, and keep conspicuously displayed, his name, license, and registration certificate in the dental office wherein he practices, in plain sight of his patients, and if there are more dentists than one practicing or employed in any dental office, the manager or proprietor of such office shall post and display, or cause to be posted and displayed, in like manner, the name, license and registration certificate of each dentist so practicing and so employed therein. Any person practicing dentistry, within the meaning of this act, who shall fail so to post and display, or cause to be posted and displayed, the name, license and registration certificate of himself and any person practicing or employed to practice as a dentist in his dental office, or in a dental office under his management or control, shall be guilty of a misdemeanor, and, upon conviction thereof, he shall, for each offense, be subject to a fine

not less than fifty dollars (\$50) nor more than one hundred and fifty dollars (\$150) or by imprisonment for a period of not more than thirty (30) days, or by both such fine and imprisonment in the discretion of the court, and for every subsequent offense he shall be subject to a fine of not less than one hundred dollars (\$100) nor more than two hundred and fifty dollars (\$250) or by imprisonment for a period of not less than sixty (60) days, or by both such fine and imprisonment in the discretion of the court. [As amended, Acts 1917, sec. 4, p. 661.] (63-517.)

State Board—Refusal to Issue Certificate—Suspension or Revocation of License—Reasons For

Sec. 16. 1935. The state board of dental examiners may refuse to issue a certificate, or, if a certificate has already been issued, have the right to review the evidence upon which a certificate has been issued, and then suspend or revoke the same and the license issued thereon for any of the following causes:

(a) The presentation to the board of any diploma, license or certificate obtained from an institution which is not reputable or an unrecognized or irregular institution or state board, or obtained by using any illegality, fraud or deception;

(b) Insanity of the applicant or license holder, as adjudged by the regularly constituted authorities;

(c) The commission of a criminal operation, or the conviction of a felony involving moral turpitude, or chronic or persistent inebriety or addiction to drugs;

(d) The failure of the applicant to pursue and complete a satisfactory course of dental and predental studies.

The state board of dental examiners shall have the power to suspend or revoke a certificate already issued and the license issued thereon, in the manner provided for in section 17 of this act upon any one or more of the following grounds:

(1) That the holder thereof has repeatedly and persistently violated any of the dental laws of Indiana or any other state of the United States, and has been convicted thereof;

(2) That the holder thereof has been convicted of a felony or any offense involving moral turpitude;

(3) That the holder thereof procured said certificate or license through fraud or misrepresentation or deceit;

(4) That the holder thereof is insane, as adjudged by the regularly constituted authorities;

(5) That the holder thereof is addicted to chronic or persistent inebriety, or to drugs;

(6) That the holder thereof employs a solicitor or capper for the purpose of procuring patients for dental work to be done;

(7) That the holder thereof employs or permits, or has employed or permitted, unlicensed persons to practice dentistry in the office under his control or management;

(8) That the holder thereof has been convicted of practicing dentistry under a corporate or trade or firm name in violation of any of the provisions of this act or any amendments thereto;

(9) That the holder thereof has, within one year prior to the filing of the complaint as provided in section 17, been guilty of unprofessional conduct as hereinafter defined;

(10) That the holder thereof has failed, neglected, or refused to comply with any of the provisions of this act or any of its subsequent amendments;

(11) That the holder thereof, for reward or otherwise, permits the use of his name, professional ability, connection or association by any person or persons for the practice of dentistry in any manner contrary to this act;

(12) That the holder thereof uses or employs the services, in connection with his practice, of any person or persons who are violating any of the provisions of this act.

The term "unprofessional conduct" as used in paragraph (9) shall mean and embrace any one or more of the following practices:

A. To publish or circulate any fraudulent, false or misleading statements relating to the skill, technical ability, professional training or the method of practice of any person, operator or technician.

B. To advertise in any manner that will deceive or defraud or mislead or will tend to deceive or defraud or mislead the public.

C. To advertise to practice dentistry without causing pain.

D. To advertise professional superiority or the performance of professional services in any manner superior to other dental practitioners.

E. To publish reports of cases or the certificates thereof by means of any public advertising media.

F. To advertise the use of any anesthetic, drug, formula, material, medicine, method or system: *Provided*, That nothing in this subsection shall operate to prevent any person, firm or corporation engaged in the practice of dentistry in Indiana at the time of the passage of this act and owning, at the same time, a valid patent, copyright or registered trade-mark which covers any of the items enumerated in this subsection, from the use of such patented, copyrighted or trade-marked name in the advertisements of such person, firm or corporation.

G. To advertise free dental service or free dental examinations or free consultation.

I. To publicly exhibit or display or publicly use specimens of dental work or any tooth, teeth, bridgework, denture or any portion of the human head or any representation or picture or illustration thereof for the purpose of attracting the attention and patronage of the public to any person, firm or corporation who is engaged in the practice of dentistry: *Provided*, That it shall be permissible for a duly licensed dentist to use a picture of himself in connection with his newspaper advertisement: ~~*Provided further*, That such newspaper advertisement or other advertisement appearing in any circular, program, yearbook, or other printed matter, shall include only the name and title of the dentist, his office and residence address and telephone number, office hours, and his specialty in practice if he be a bona fide practitioner of a dental specialty.~~

J. To give a public demonstration of skill or the method of practicing dentistry for the purpose of attracting patronage upon or along any street or highway or in any place other than the office where such person, firm or corporation is known to be regularly engaged in the practice of the profession of dentistry.

K. Nothing herein contained shall prohibit or prevent the erection or use of a sign or placard, illuminated or otherwise, within the professional office or offices or upon the doors and/or windows thereof; or upon or within the building in which such office or offices are located, and carrying the name of the dentist or the firm of dentists or dental corporation, and such other information with regard to such dental office or offices as shall merely inform the public that such person, firm or corporation is engaged in the practice of dentistry, the location of the office or offices, and the office hours, and days when the same is or are open for practice of dentistry: *Provided, however,* That the largest letters upon such sign or placard hereafter erected shall not exceed seven inches in height.

L. To advertise a guarantee of warranty of any dental service where the result depends upon the action or reaction of human tissue. The terms "publish," "circulate," and "advertise" as used herein shall mean and include the use of advertisements by means of any circular, letter, card, handbill, sign, poster, stereopticon [stereopticon] slide, motion picture, advertising match, advertising mirror or any other advertising article or by advertising in any newspaper, magazine, telephone directory, city directory, theatre or other program, or other publication or by projection by means of light or by crier or by any public address system or by radio broadcasting or by television, or by airplane banners or by sky writing or by the use of any advertising solicitor or publicity agent or by any other advertising device for the purpose of soliciting patronage.

The revocation or suspension of any certificate and license shall automatically in like manner revoke or suspend the current renewal certificate. Likewise, such revocation or suspension of the certificate and license shall automatically revoke or suspend any secondary certificate and license and the current renewal thereof. [As amended, Acts 1943, sec. 1, p. 1036.] (63-518.)

Proceedings to Suspend or Revoke—Method of Procedure

17. Any proceeding for the revocation or suspension of any certificate and license to practice dentistry in the State

of Indiana shall be begun by the filing of a written complaint in triplicate with the secretary of the board of dental examiners. Such complaint shall be signed and verified by a resident of Indiana and shall set out the paragraph or paragraphs of section 16 claimed to have been violated by the accused and a brief statement of the facts constituting such violation. Upon the filing of such complaint the board shall make such investigation of the matter set out therein as it may deem proper, and if, upon such investigation, it believes a hearing upon such complaint is warranted, it shall fix a time and place for such hearing. Such time so fixed shall be not less than twenty (20) days after service upon the accused of the notice hereinafter provided for, and the place so fixed shall be in the county in which the accused is licensed to engage in the practice of dentistry. Notice of the time and place of such hearing over the signature of the secretary and seal of such board, together with a copy of the complaint, shall be served upon the accused not less than twenty (20) days before the date of such hearing by the sheriff of the county in which the same is to be held or by any other officer authorized by law to serve court process, by delivering a copy of such notice and complaint to the accused, or leaving the same at his last or usual place of residence or at the office or place in such county where he has last been engaged in the practice of dentistry. The secretary of the board shall likewise notify the attorney general of Indiana of such hearing and supply him with a copy of such complaint.

Upon the written praecipe, seasonably made, of the complainant or the accused, or their legal counsel, or the attorney general, the secretary of the board shall issue subpoenas in the name of the State of Indiana and directed to the sheriff of the county, for such witnesses as may live in such county and are named in such praecipe, which subpoenas shall be served and returned as in civil cases.

Depositions of witnesses unable to appear at such hearing or living outside the county may be taken by either party or the attorney general in the same manner as depositions in civil cases, and forwarded to the clerk of the circuit court in the county of such hearing in sufficient time for delivery at such hearing by the clerk to the board for publication and use.

Upon the failure of any witness, lawfully subpoenaed as hereinbefore set out, to appear at such hearing, such fact may be certified by the hearing members of the board to the judge of any circuit, criminal, superior, municipal or city court in such county, who shall enter a rule against such defaulting witness requiring him to appear forthwith before such judge and show cause why he should not be attached and punished for contempt, which rule to show cause shall be served upon such witness personally by the sheriff of said county or other officer authorized by law to serve process. Upon the failure of such witness to obey such rule an attachment shall be issued by such judge, for the arrest of such witness. Upon the appearance of such witness in response to such rule or attachment before the said judge, unless the witness shall purge himself of any intent to wilfully disobey and ignore the subpoena of the board, the judge shall punish him for contempt in the manner provided by law for disobedience of the process of courts.

At the time and place fixed for such hearing, the board or any two (2) or more members thereof shall proceed to hear all evidence relevant to the matter in hearing, including the depositions of witnesses taken as hereinbefore provided for, as may be tendered by either party or his counsel or the attorney general, and may, in its or their discretion, hear argument of counsel and the attorney general thereon. Any hearing member of such board shall be authorized to administer any oaths or affirmations necessary to the conduct of such hearing. Such evidence shall be reported by a reporter appointed by the board or the hearing members for such purpose, which appointment shall be noted in the record of such proceedings. Such reporter, before engaging in the performance of his duties as such, shall take an oath to honestly and faithfully discharge his duties as reporter of such proceedings. Such board shall have the power to make such other rules and regulations, not inconsistent herewith, or with the laws of Indiana, for the conduct of such hearing and proceedings supplemental thereto, as in its opinion may be necessary. Such hearing shall be continued from day to day until the same is completed. Continuances may be granted by the board or the hearing members upon application by either party or by the attorney general upon a showing to the satisfaction of

such board or the hearing members that the ends of justice will be promoted thereby, and upon such conditions as to the payment of costs, including the expenses and per diem of the hearing members as it or they may deem proper.

After such hearing is completed, the members conducting the same shall prepare in writing and file with the secretary of the board their recommendations as to the findings of fact to be made by the board upon the evidence presented at such hearing. Such board shall thereupon approve or modify such findings so made, and, when so approved or modified, the same shall constitute the findings of the board. The board shall thereupon make and enter upon its records such order as in its opinion shall be warranted by the facts set forth. Such order may be that the license and certificate of the accused be revoked or that the same be suspended for any specified period not exceeding one (1) year, or that the complaint be dismissed. In the event that such order shall be for the suspension or revocation of the certificate and license of the accused, the costs of such proceedings shall be assessed against the accused, and made a part of the order.

A copy of such findings and the order of the board certified to be correct by the secretary thereof, shall be forwarded by registered United States mail to the accused, the complainant and the attorney general, and such order shall be in full force and effect from and after the receipt by the accused of such copy.

Any person whose license and certificate has been revoked or suspended, may, within sixty (60) days after the entering of such order of revocation or suspension, or, if a rehearing has been applied for, within thirty (30) days after the denial of such application for rehearing, if the same is denied, file an action in the superior or circuit court of the county in which such hearing was held, against the state board of dental examiners to vacate or set aside such order of revocation or suspension upon any one or more of the following grounds:

1. That the order of the board is contrary to law.
2. That the order of the board was obtained through fraud or other unlawful methods.

3. That the order of the board is not supported by sufficient evidence.

For no other reasons or reason shall such order be vacated or set aside. If such action is based upon either of the first two mentioned grounds, the complaint shall briefly set out the facts believed to support such contention. In the trial of such cause, no evidence shall be received in support of the third mentioned ground except a transcript, duly certified by the reporter at such hearing, of the testimony received at the hearing resulting in such order of revocation or suspension. If the court trying such cause shall find that there is substantial support in such evidence for the order of the board, such order shall not be vacated or set aside upon the third mentioned ground. Such cause shall be tried by the court without the intervention of a jury. Changes of venue and change of judge may be had therein as is provided by law in the trial of other civil cases.

Pending the final judgment of such court, the order shall be in full force and effect unless the plaintiff to such action shall file his verified petition for a temporary injunction pending such final judgment, together with a bond with good and sufficient surety to the satisfaction and approval of the court, payable to the State of Indiana, in a sum fixed by the court or the judge thereof in vacation, not exceeding two hundred (\$200.00) dollars, and conditioned that if the final judgment of the court shall not vacate or set aside such order of the board of dental examiners, the penalty of such bond shall be forfeited and paid to the State of Indiana, in lieu of any and all fines and penalties for which such plaintiff might be liable by reason of practicing dentistry without a license in violation of the laws of Indiana during the interim between the entry of such order by the board and the rendition of such final judgment by such court. The penalty of such bond, in the event of such forfeiture, shall be recovered by action in the name of the State of Indiana, brought by the attorney general or prosecuting attorney, as other forfeitures are recovered.

No such temporary injunction shall be issued until after reasonable notice to the state board of dental examiners and the attorney general, and a hearing upon such petition, nor unless

the judge granting the same shall be of the opinion that the ends of justice require the same.

From any final judgment of such court, an appeal may be taken by either party to such action to the appellate court of Indiana as other appeals are taken in other civil actions, and, in the event such appeal shall be taken by the state board of dental examiners, no appeal bond shall be required of such board. [As amended, Acts 1935, sec. 8, p. 270.] (63-519.)

Review of Proceedings—Duties of Attorney General and Prosecuting Attorneys

18. It shall be the duty of the attorney general to represent the board of dental examiners in any court in which an action may be filed for the review of an order of the board as provided for in section 17 of this act. The attorney general may, at his discretion, call to his assistance in such action, the prosecuting attorney of the county in which such action is filed. Also, the board shall have the right to employ, out of its own funds any other attorney or attorneys to assist the attorney general in any such action. [As amended, Acts 1935, sec. 9, p. 270.] (63-520.)

Application of Act and Exceptions Therefrom

19. This act shall not apply to any commissioned officer of the regular United States army, navy, marine, public health or veterans' bureau service in the discharge of his official duties; nor to any dentist who is legally qualified to practice in the state or territory where he resides, when in actual consultation with a legal practitioner of Indiana; nor to any dentist residing on the border of a neighboring state and duly authorized to practice dentistry under the laws thereof, whose practice extends into the border of Indiana: *Provided*, That such practitioner shall not open an office or appoint a place to meet patients or solicit practice within the limits of Indiana, nor shall this act apply to a dentist who is duly licensed in another state or country while appearing as a clinician for demonstrating certain methods or technical procedures before a meeting, clinic, or convention of Indiana dentists: *Provided*, That no fee or cash or money reimbursement or consideration or remuneration of any kind is paid, directly

or indirectly or by any subterfuge, to such clinician by or for the person used as a patient in such clinic or demonstration; nor shall this act apply to any Indiana dentist who is duly licensed in the county of his practice while such dentist is appearing as a consultant or operator in another county of this state or in any hospital located in Indiana: *Provided*, That such dentist shall not establish an office to serve patients in such other county; nor shall this act apply to licensed physicians or surgeons, who are hereby authorized to take x-ray pictures of the human teeth and/or jaws and to extract teeth and to perform surgical operations upon the teeth and/or jaws at their usual office or residence or within the vicinity of their ordinary practice, whenever, in their judgment, the same may be necessary: *Provided, however*, That this exception shall not apply to itinerant licensed physicians and surgeons who have to a large extent abandoned their practice as physicians and surgeons and are, in fact and effect, practicing dentistry almost exclusively. [As amended, Acts 1935, sec. 10, p. 270.] (63-521.)

Practice of Dentistry Defined

20. Any person shall be said to be practicing dentistry within the meaning of this act who uses the word "dentist" or "dental surgeon" or the letters "D.D.S." or "D.M.D." or other letters or titles in connection with his name which in any way represents him as engaged in practice of dentistry;

or owns or operates a dental office or is manager or conductor of the same;

or advertises or permits to be advertised by sign, card, circular, handbill, newspaper, radio, or otherwise that he can or will attempt to perform dental operations of any kind;

or offers to diagnose or professes to diagnose or treats or professes to treat any of the lesions or diseases of the human oral cavity, teeth, gums, maxillary or mandibular structures;

or extracts human teeth or corrects malpositions of the teeth or jaws;

or administers dental anesthetics, whether local or general;

or makes x-ray pictures of the human teeth or jaws;

or makes impressions or casts of any oral tissues or structures for the purpose of diagnosis or treatment thereof or for the construction, repair, reproduction or duplication of any prosthetic device to alleviate or cure any oral lesion or replace any lost oral structure, tissue, or teeth;

or engages in practices included in the curricula of recognized dental colleges;

or directly or indirectly by any means or method furnishes, supplies, constructs, reproduces, repairs, or adjusts any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth and delivers the same to any person other than the duly licensed dentist upon whose prescription or order the work was performed;

or who advertises to the public by any method to furnish, supply, construct, reproduce, repair, or adjust any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

Provided, That this section shall not apply to an employee or assistant of a duly licensed and practicing dentist engaged in making x-ray pictures in the office of such dentist and under his direction; and, *Provided further*, That nothing in this act shall interfere with the performance of mechanical work on inanimate objects by any person employed in or operating a dental laboratory if the products of such laboratory are not advertised to the public: and, *Provided further*, That this act shall not prevent dental students from performing dental operations under the supervision of competent instructors within the dental school of a university recognized by the Indiana State Board of Dental Examiners, or in any public clinic under the supervision of the authorized superintendent of such clinic, authorized under the authority and general direction of the board of health or school board of any city or town in Indiana: and, *Provided further*, That legally licensed druggists of this state may fill prescriptions of legally licensed dentists of this state for any drug necessary in the practice of dentistry. [As amended, Acts 1943, sec. 2, p. 1036.] (63-522.)

Prima Facie Evidence of Engaging in the Practice of Dentistry

20a. The opening, maintaining, operation, leasing, or sub-leasing for profit of a dental office or dental equipment or place of business for the practice of dentistry; or the announcing to the public in any manner of intent to maintain, directly or indirectly, said office or place of business for the practice of dentistry; or the use of any professional degree, title, or designation, personal or otherwise, or any sign, card, circular, device, picture, or advertisement that might impress the public that said office is used for the practice of dentistry shall be prima facie evidence of engaging in the practice of dentistry: *Provided*, That nothing in this section shall apply to interfere with sales of dental equipment or materials by established, bona fide dealers nor to the renting or leasing of real estate by the actual owner thereof or his agent. [Added by Acts 1943, p. 1036.] (63-522a.)

Penalties

21. Any person, firm or corporation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or by imprisonment in the county jail for not less than thirty (30) days, or by both such fine and imprisonment, in the discretion of the court who:

(1) Shall practice dentistry, in any county of the state not being at the time of such practice a dentist duly licensed to practice as such in this state, and registered in the office of the clerk of the circuit court of such county, pursuant to the provisions of this act; or

(2) Shall employ, hire, procure or induce one who is not duly licensed and registered as a dentist to practice dentistry, or shall aid or abet one not so licensed and registered in such practice: *Provided*, That a person practiced upon by an unlicensed or unregistered dentist shall not be deemed an accomplice, employer, hirer, procurer, inducer, aider, or abettor within the meaning of this act; or

(3) Shall sell or barter, or offer to sell or barter, or, not being lawfully authorized so to do, shall issue or confer, or

offer to issue or confer, any dental degree, license, or any diploma or document conferring, or purporting to confer, any dental degree or license, or any certificate or transcript made, or purporting to be made, pursuant to the provisions of this act regulating the licensing and registration of dentists; or

(4) Shall purchase, or procure by barter, any diploma, certificate, or transcript, with the intent that the same shall be used as evidence of the qualifications to practice dentistry of any person other than the one upon, or to whom, it was lawfully conferred or issued, or in fraud of the laws regulating such practice; or

(5) Shall use, or attempt to use, any diploma, certificate, or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license, to practice dentistry, or in order to procure registration as a dentist; or

(6) Shall practice dentistry under a false or assumed name, or under the license or registration of another person of the same name, or under a corporate, firm, association, parlor or trade name, or shall hold himself out to the public under such name, or names, as a practitioner of dentistry as defined in this act: *Provided*, That it shall not be unlawful for any one duly licensed so to do, to practice dentistry, or to hold himself out as a practitioner of dentistry, under the name of any legally incorporated dental company, existing and in operation prior to the taking effect of this act: (*this incorporation feature is embodied in the act of 1917*): *Provided*, further, That corporations which shall have ceased to exist or operate prior to the taking effect of this act, or shall thereafter cease to exist or operate, for any reason whatsoever, shall not be revived or permitted to resume operations; or

(7) Shall assume the title and/or degree of "bachelor of dental surgery," or append the letters "B. D. S.," "D. D. S.," "M. D. S.," or "D. M. D." to his name, or make use of the same, or shall prefix to his name the title of "doctor," or any abbreviation thereof, not having had duly conferred upon him by diploma from some college, school, or board of examiners legally empowered to confer the same, the right to assume such or any such titles; or shall assume any title or append

or prefix any words to his name, with the intent to represent falsely that he has received a dental degree or license; or, not having been licensed to practice dentistry under the laws of this state, shall represent that he is entitled so to practice: *Provided*, That any dental licentiate may use the prefix "doctor" or "Dr." to his name; or

(8) Shall falsely personate another at any examination held by the state board of dental examiners to ascertain the preliminary professional education of candidates for dental certificates, dental degrees, or dental licenses; or shall induce another to make or aid and abet in the making of such false personation, or who shall knowingly avail himself of the benefit of false personation, or who shall knowingly and wilfully make or induce another to make, falsely, any certificate required by the said board in connection with examinations; or

(9) Shall violate any of the provisions of this act for which no specific penalty has been provided herein.

Each separate date that any such person, firm or corporation, shall violate any of the provisions of this section shall constitute a separate offense. [As amended, Acts 1931, sec. 13, p. 536.] (63-523.)

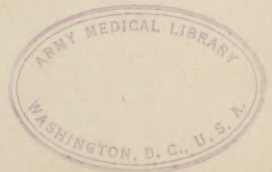
Exempt From Jury Duty

22. Any person practicing dentistry and having a license under this act shall be exempt from jury duty. (63-524.)

Expenses of Board

23. No part of the expenses of the state board of dental examiners shall be paid out of the state treasury. On the first day of January of each year the secretary-treasurer shall pay into the hands of the state treasurer for the general fund all moneys in excess of \$500.00 remaining after all indebtedness of the board has been paid. And said board shall make an annual report of its proceedings to the governor on or before the 31st day of October, each year, showing all moneys received and disbursed by it, pursuant to this act. (63-525.)

Note—Certain provisions of this section have been superseded by the provisions of the biennial appropriation acts since 1925, which provide "such appropriations to be in lieu



of any and all provisions heretofore made for the payment of salaries and expenses of said Board: Provided, That all fees collected by said board shall be paid to the general fund of the state; and Provided, further, That the appropriations above made are hereby limited to the amount of fees collected in the same fiscal year."

The fiscal year ends on June 30th of each year.

By section 3 of Chapter 33, Acts 1933, p. 160, annual reports to be filed with the Governor are required to cover the fiscal year, and are to be filed on or before September 1 of each year. (60-503.)

Constitutionality—Provisions Severable

23a. If any provision of this act as amended be decided by the courts to be unconstitutional or invalid, such unconstitutional or invalid provision shall be considered severable from the remainder of this act and shall be excised therefrom, and the same shall not affect the validity of this act as a whole, or any part thereof, other than the part so decided to be unconstitutional or invalid. [Added by Acts 1931, sec. 14, p. 586; as amended Acts 1935, sec. 11, p. 270.] (63-526.)

Repeal

24. All the laws and parts of laws in conflict with this act are hereby repealed.

